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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/803,486 | 03/18/2004 | Ralf Flemming | 71027-011 | 5699 |

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EXAMINER

PATEL, VISHAL A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3676

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/803,486 | Applicant(s) FLEMMING, RALF | |
| | Examiner Vishal Patel | Art Unit 3676 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3/04 and 7/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations “the profile stumps are filled with an elastomer-type coating material” and “the presence of a stopper next to a full stump in the area of the at least one pass-through opening, the stopper is formed by at least one profile stump” of claims 6 and 8, respectively, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: The title on page 3, between paragraph 0014 and 0015, "THE DRAWINGS" should be replaced by --BRIEF DESCRIPTION OF THE DRAWINGS--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Udagawa (US. 6,036,195).

Regarding claim 1: Udagawa discloses a seal for combustion engines, comprising at least one metal layer (layer having A15 and A16) having an outer edge region, at least one pass-through opening (Hw1) formed in the at least one metal layer and a plurality of circumferential parallel profile sumps formed in at least the outer edge region (plurality of beads A16 and A15 at the edge region near the Hw1).

Regarding claims 2-3: The profile sumps are formed as circumferential wave sumps and circumferential saw-tooth profile (as seen in figure 3).

Regarding claim 4: The profile sumps run parallel to one another and have the same shape (this is the case in figure 3).

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Regarding claim 5: The profile sumps run parallel to one another and have offset cross section (this is the case as described in figure 5b, which describes a metal layer having plurality of sumps B16' and B15 around an opening and the sumps B16' and B15 are offset cross section).

Regarding claim 7: The at least one pass-through opening is surrounded by at least one associated circumferential profile stump (this is the case since opening Hc has a stump around it, Hb has a stump around it, and Hw1 has a stump around it).

5. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Gorsica (US. 3,053,544).

Regarding claim 1: Gorsica disclose a seal comprising at least one metal layer having an outer edge region (layer having 18, 16 and 14), at least one pass-through opening (15) formed in the at least one metal layer, a plurality of circumferential parallel sumps formed in at least one outer edge region (this is the case since 18, 16 and 14 all are parallel to each other).

Regarding claim 8: The presence of stopper (16) next to a full sump (14) in the area of the at least one pass-through opening, the stopper is formed by the at least one profile stump (16).

6. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Jelinek (US. 3,930,656).

Jelinek disclose a seal for combustion engines, comprising at least one metal layer (metal layer of figure 5) having an outer edge region (region having plurality of sumps 42), at least one pass-through (passage communicating with passage in member 12') formed in the one metal

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layer and plurality profile sumps (42) formed in at least the outer edge region. The profile sumps filled with an elastomer-type coating material (46-48 and 51).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nicholson teaches a gasket having plurality of sumps on the outer edge and around an opening, Miyaoh teaches sumps that have offset cross-section, Maeda teaches to have a elastomer on a sump, Diez et al and Teranishi et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is (703) 308-8495. The examiner can normally be reached on Monday through Friday from 7:30 PM to 4:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann, can be reached on (703) 306-4115.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168. Technology Center 3600 Customer Service is available at 703-308-1113. General Customer Service numbers are at 800-786-9199 or 703-308-9000. Fax Customer Service is available at 703-872-9325.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to: 703-872-9326, for formal communications for entry before Final action: or,
703-872-9327, for formal communications for entry after Final action.

Hand-delivered responses should be brought to Crystal Park Five, 2451 Crystal Drive, Arlington, Virginia, Seventh Floor (Receptionist suite adjacent to the elevator lobby).

VP
October 27, 2004

A handwritten signature in black ink, appearing to read 'Vishal Patel', with a stylized flourish at the end.

Vishal Patel
Patent Examiner
Tech. Center 3600